

# Enterprise and Learning Committee

EL(3) 25-08 (p1) : 22 October 2008

## Purpose

Written evidence on the proposed draft (Legislative Competence) (Traffic Free Routes) Order 2009 from The Guide Dogs for the Blind Association, Disability Wales and the Royal National Institute of Blind People Cymru

## Background

When the original petition was submitted by Sustrans Cymru in October 2007, Guide Dogs and Disability Wales submitted a joint paper outlining the implications for disabled people including blind and partially sighted people, deaf and hard of hearing people, people with walking difficulties, wheelchair users and people with learning disabilities.

A second briefing paper was provided in advance of the committee meeting on 3 July 2008 to address the points made in the paper submitted by Sustrans Cymru dated 24 June 2008. In that paper we noted the dialogue that had taken place between our organizations and Sustrans in order to try to reach agreement on this matter. However, while Sustrans proposed to revise the wording it remained implicit in their proposal that shared use paths will be introduced.

In this paper we will focus on the additional issues raised in the report of the committee meeting on 3 July 2008.

We would like to make clear from the outset that we support in principle the development and maintenance of paths for pedestrians and the development of safe routes for cyclists. We do not, however, support their combined use.

On 3 July 2008 the committee referred to the concerns of blind and partially sighted people but not to the concerns of a wider range of disabled people. The sharing of paths with cyclists can present a very real hazard for pedestrians in general but even more so for those with mobility and sensory impairments, people with learning difficulties, older people, and carers. This is reflected in the support we have received on our concerns from the following organisations, representing a wide cross section of people in Wales:

Access Association for Wales; Age Alliance Wales; Arfon Access Group; Brecknock Access Group; Carers Wales; Cardiff Access Group; Cardiff Institute for the Blind; Ceredigion Disability Rights Service; Deafblind Cymru; Dyspraxia Foundation; Gwent Association for the Blind; Learning Disability Wales; Llanelli Access Group; National Autism Society Cymru; Newport Access Group; Pembrokeshire Access Group; Swansea Safe Access for Everyone; Vision Impaired West Glamorgan; Vision Impairment Merthyr

We agree that the health and environmental benefits of well maintained traffic free routes are important - but they are not conditional on these paths being shared use. Conversely, such paths will exclude many people, particularly disabled people, from these benefits.

We fully support the benefits of cycling for disabled people, but these benefits are again not conditional on shared use paths. It can be argued that separate routes rather than shared use would in fact build confidence for disabled cyclists and minimize risk of collisions. This may also be the case for new and inexperienced cyclists which the Committee aims to encourage.

The clear implication of the proposal is that shared use paths are acceptable. We have amassed considerable anecdotal evidence that collisions and near-misses between cyclists and disabled pedestrians are a regular occurrence, and, as importantly, the negative impact on the independence of disabled people who are no longer able to use routes that are used by cyclists. These incidents relate not only to existing pedestrian paths used by cyclists, legally or illegally, but also to those paths specifically designed and developed for shared use.

The development of the shared use network in Wales has, so far, not taken into account the concerns of disabled people who are unable to use shared paths.

"In Llanelli on the Coastal Park we asked for and were promised a Central Delineator Raised Line, to separate the cyclist from the pedestrian, this was ignored and the wheelchair user and the elderly etc are considered by the cyclists as a pain and we should not be permitted on THEIR cycle route. These cyclist come up behind you at great speed, they are quite silent and give elderly and disabled users heart stopping frights."

Llanelli Access Group

"In Ceredigion, along the coastal path, a number of ambulant disabled people have had near miss experiences with cyclists.... It is of course very frightening for a wheelchair user when a group of cyclists pass close by at high speed, and ambulant disabled people using sticks have those aids knocked out of their hands. Most local authorities appear to give priority to the needs of cyclists rather than any pedestrians, disabled or otherwise."

Ceredigion Disability Rights Service

The extent of the problem of collisions between cyclists and pedestrians has not been adequately researched, accident records do not routinely include this information, and it is known that many collisions are unreported. However, it only takes one accident or near miss to shake the confidence of a disabled person to the extent that they no longer feel able to use that route.

"Personally I have experienced abuse from a cyclist when I was using a shared use path and was moving too slowly in my wheelchair."  
(Mr C, Swansea).

"I was walking along carrying my shopping home. Suddenly somebody shouted something and I was knocked off my feet. I struggled up to see a cyclist pedaling away as fast as he could, people around me came to help me, they called after him but he just went. I won't go that way again."  
(Mrs H, 72, Port Talbot).

Guide Dogs research has demonstrated that people will avoid routes if they do not feel safe. In this way the most vulnerable pedestrians simply disappear from any auditing exercises.

"I used to walk a kilometre or two down the tarmacked Taff trail each week. Yesterday I walked from the hospital to the park, and through to Georgetown to get a bus. I work pretty tightly to a mind map, using my little peripheral vision for navigation. I used to cross the path to avoid big puddles or banks going downward, or to be nearer a wall or kerb which I could tap with my cane. I realised that I no longer cross sides, as I have been passed too uncomfortably close by cyclists who have failed to announce their approach. I used to love that walk, one of the few places I felt safe."  
(Mr M, 64, Merthyr)

### **Would a code of conduct for cyclists provide a solution?**

Most cyclists will attempt to behave appropriately on a path where there are pedestrians present. However, as stated in the recent consultation document from the Department for Transport on Cycling Infrastructure "Occasional inconsiderate cycling by a minority of users is likely to persist whatever restrictions exist." The issue is wider than inconsiderate cyclists. Even the most conscientious and well trained cyclist may have difficulty avoiding someone who steps directly in front of them, because they did not see or did not hear the cyclist approaching. Thus, while we agree that training of cyclists and a Code of Conduct, as proposed by Sustrans, would bring some benefits, they would not overcome the problems of shared use paths.

### **The policy context**

The usual hierarchy applied to cycle routes states that these should, wherever possible, be provided on the carriageway, and if this is not possible, be off road cycle routes, with shared use pedestrian and cycle paths, introduced as a last resort. This is reinforced in the Welsh Assembly Government's Cycling and Walking Strategy. Appropriate segregation between the pedestrian and cyclist sections should be provided where shared use paths are necessary.

The Welsh Assembly Government Walking and Cycling strategy states:

"3.1.9 The Joint Committee on Mobility of Blind and Partially Sighted People supports the adoption of a hierarchy for users of transport infrastructure. The Assembly Government proposes the following hierarchy to guide local authorities in the provision of infrastructure:

Disabled people; then

Pedestrians; then

Cyclists; then

Public transport; then

Freight deliveries; and then

Other motorised modes.

The proposed Order, as currently worded, would in our view place cyclists above disabled people and pedestrians in this hierarchy.

It is essential to take into account that the population of Wales is changing, and that the incidence of disability inevitably increases with age. The age distribution of the population in Wales continues to differ from that of the UK, with a higher proportion over retirement age. By 2021 it is projected that nearly 22 per cent of the population in Wales will be of retirement age. This points to a need to plan and design inclusively, and to create an outdoor environment which invites and enables participation by disabled people.

### **Could our concerns be addressed at the Measures stage?**

We understand the committee's view, stated on 3 July, that our concerns should be addressed at the Measures stage. However, as Measures flow from the Order we consider it should be redrafted to reflect a focus on the requirements of pedestrians and the National Assembly for Wales' Disability Equality Duty, commitment to the Social Model of Disability, and the promotion of social inclusion.

Measures and guidance must have a presumption that separate paths will be provided for pedestrians and cyclists. Shared use should only be considered as a last resort and be well designed with effective segregation. Existing pedestrian footways and footpaths should not be turned into shared use.

Sustrans Cymru proposed that a requirement for Equality Impact Assessments be inserted at the Measures stage and that "just as we routinely assess risk we would also make an assessment which takes in account user needs alongside practicality and proportionality." This would require disabled people and their organisations to try to influence each and every shared use scheme proposed across Wales,

which would simply not be possible.

At the Committee meeting on 3 July 2008, Sustrans Cymru referred to a shared use path (on the Gower Peninsula), and gave the impression that shared use was necessary where no other practical alternative exists. This is not borne out by the facts: shared use paths are championed as desirable by Sustrans. Indeed Sustrans Cymru referred to these as being of benefit for disabled people despite the overwhelming evidence to the contrary.

Sustrans Cymru also stated, on 3 July 2008, that "We aim to have paths around 4m wide, ... wide enough for two wheelchairs to pass one another, and for walkers and cyclists to mingle happily." This however misses the point and illustrates a lack of awareness of the mobility requirements of disabled people. Even if paths are wide this does not overcome the problems which shared use with cyclists cause for disabled people.

Thus, if the Order itself includes a presumption that networks of paths will be developed for the use of both pedestrians and cyclists, we do not consider that it will be possible to address the issues effectively at the Measures stage.

## **Recommendations**

We would urge the Enterprise and Learning Committee to support us in this matter by:

Amending the proposed Order by explicitly linking it to the Disability Equality Duty and aligning it with the Social Model of Disability, which emphasizes the need to remove discriminatory barriers in society that prevent disabled people from fully participating as equal citizens.

Developing and maintaining paths for pedestrians, accessible and safe for all pedestrians including disabled people,

Developing separate, safe routes for cyclists.

We believe this legislation offers an opportunity to ensure that the government of Wales is an exemplar of best practice, by ensuring that new paths encourage social inclusion and are places that can be used safely by all of our communities.

## **Response to questions:**

### **What are your views on the general principle that legislative competence in the area identified in Matter 10.xx be conferred on the Assembly?**

We support the general principle that legislative competence in this area be conferred on the Assembly.

### **What are your views on the terms of the proposed Order? For example, are they too narrowly or too broadly drawn? If necessary how should the proposed Order be re-drafted and why?**

The Order is too broadly drafted. Our concern is with the phrase 'networks of highways for the use of users other than motor vehicles.'

We propose that the Order be redrafted to specify networks solely for the use of pedestrians. Pedestrians need safe, convenient and well maintained paths. Cyclists should also have safe and convenient routes, but they should not be shared with pedestrians.

### **Would the terms of the proposed Order allow for the development of traffic free routes in Wales? If not, how would the proposed Order need to be re-drafted and why?**

And

The proposal is "Provision imposing duties on highway authorities in Wales in relation to the development and maintenance of networks of highways for the use of users other than motor vehicles." What are your views on this?

We are concerned about the wording of the Order because it implies that traffic free routes/networks will be developed and shared by cyclists and pedestrians. As we have described this is a major concern for a wide range of disabled people. We believe that this is against the spirit of the Disability Discrimination Act, 1995 and the Disability Equality Duty.

### **Should the terms "development" and "maintenance" be defined within the matter?**

The terms "development" and "maintenance" should be defined.

The terms "traffic", "highways" and "motor vehicles" should also be defined.

The term "traffic" could relate to cyclists. The term "motor vehicles" is unclear in relation to motorised wheelchairs/buggies. The term "highways" could relate to footways/pavements alongside roads as well as off road paths.

## **Contacts:**

Andrea Gordon, Policy Manager Wales, Guide Dogs for the Blind Association Tel Home Office: (01792) 702796 Email: [andrea.gordon@guidedogs.org.uk](mailto:andrea.gordon@guidedogs.org.uk)

Graham Findlay, Policy Officer, (Access and Transport), Disability Wales/Anabledd Cymru Tel 029 2088 7325 Email:  
[graham.findlay@disabilitywales.org](mailto:graham.findlay@disabilitywales.org)

Kate Hughes, Policy and Communications Officer, RNIB Cymru  
Tel 029 2044 9577 Email [kate.hughes@rnib.org.uk](mailto:kate.hughes@rnib.org.uk).